

**STATE OF NEW MEXICO
BEFORE THE SECRETARY OF THE ENVIRONMENT**

**IN THE MATTER OF THE APPLICATION
OF CHACO COMPRESSOR STATION
(HARVEST FOUR CORNERS, LLC) FOR AN
AIR QUALITY PERMIT, NO. P239R3 (TITLE V)**

AQB 21-37

**IN THE MATTER OF THE APPLICATION
OF CARRACAS CDP COMPRESSOR STATION
(HARVEST FOUR CORNERS, LLC) FOR AN
AIR QUALITY PERMIT, NO. P168R4 (TITLE V)**

AQB 21-43

**NEW MEXICO ENVIRONMENT DEPARTMENT AIR QUALITY BUREAU'S
CLOSING ARGUMENT AND PROPOSED FINDINGS OF FACT AND CONCLUSIONS
OF LAW**

COMES NOW, the Air Quality Bureau ("Bureau"), within the Environmental Protection Division ("Division") of the New Mexico Environment Department ("Department"), and respectfully submits this Closing Argument and Proposed Findings of Fact and Conclusions of Law in the above captioned matters, pursuant to 20.1.4.500(B) NMAC.

I. CLOSING ARGUMENT

At the November 15, 2021, hearing in this matter, the Bureau provided technical testimony in support of the recommendation to issue the two draft permits to Harvest Four Corners, LLC. The Bureau's testimony has established that the Bureau has given a thorough and complete administrative and technical review of both applications, and that both draft permits meet all of the legal and technical requirements under the Air Quality Control Act and associated regulations. In addition, the Bureau's testimony has demonstrated that WildEarth Guardians have failed to meet

its burden to prove that any conditions of any of the Draft Permits are inadequate, improper or invalid.

The Air Quality Bureau recommends that the Secretary uphold the Bureau's decision to approve issuance of this Permit.

II. PROPOSED FINDINGS OF FACT

A. The Applicant and Facilities

1. Harvest Four Corners, LLC ("Permittee") is a Texas-based foreign limited liability company and the owner/operator of the following facilities (referred to jointly as "Facilities").

- a) Chaco Compressor Station ("Chaco CS"), for which the Permittee is seeking a Renewal and Significant Modification to Title V Permit Nos. 0759-M6R1 and P236-R3, pursuant to 20.2.70.300.B(2) and 20.2.70.404(C) NMAC. Chaco CS compresses pipeline natural gas for transmission. The facility will be permitted for the operation of four natural gas-fired turbines (all driving compressors), one standby generator, one pig receiver, truck loading, equipment leaks, two condensate storage tanks, and two produced water storage tanks. Other sources at the facility include heaters and miscellaneous storage tanks. The storage tanks are used to store oil, used oil, condensate, produced water, and methanol. A separator and ejector vapor recovery unit ("EVRU") reduce emissions from the condensate storage tanks at the station. An alternate operating scenario in the permit allows for increased throughput when the EVRU is replaced by

a more efficient vapor recovery unit. Chaco CS is located in San Juan County, New Mexico, Section 27, Range 11W, Township 29N. [Chaco CS AR No. 1, NMED Exhibit 15 at 1-2].

- b) Carracas Central Delivery Point (“Carracas CDP”), for which the Permittee is seeking a Title V Permit Renewal to Permit Nos. 0968M5R6 (and revisions through M5R11) and P168R4, pursuant to 20.2.70.300(B)(2) NMAC. Carracas CDP compresses and dehydrates natural gas for pipeline transport. Natural gas is delivered via pipeline from independent producers and metered as it enters the facility. The natural gas stream typically contains produced water, which is separated from the gas stream via inlet separator and stored in above ground storage tanks. The natural gas is then compressed for pipeline transmission using compressors driven by the natural gas fired reciprocating internal combustion engines. The compressed gas stream is routed to triethylene glycol (“TEG”) dehydrators where the TEG solution comes into contact with the natural gas and removes water and some of the hydrocarbons. A rich TEG solution is regenerated by boiling off the water and hydrocarbons and reclaiming the glycol. Emission from the still vent portion of the dehydrators is routed via a closed vent system to process flares for emissions control. Natural gas turbine generators provide auxiliary power for the facility. Operation of the compressor engines is determined by market and pipeline conditions. The compressor engines may be shut down and restarted to respond to changing

pipeline pressures, or for routine equipment maintenance. Compressor and piping blowdown emissions occur during startup, shutdown and routine maintenance (“SSM”) operations. Insignificant emission sources at the facility include the various storage tanks, and fugitive emissions from process piping. Carracas CDP is located in Rio Arriba County, New Mexico, Section 34, Range 5W, Township 20S. [Carracas CDP AR No. 1, Bates 009; AR 6 Bates 540-543].

B. The Bureau’s Administrative and Technical Review of the Respective Applications

2. Bureau Permit Specialist, Urshula Bajracharya, was the permit writer for both Chaco CS and Carracas CDP (referred to collectively at the “Applications”). [NMED Exhibits 5 and 6].

3. For Chaco CS, the application for a permit modification was received by the Bureau on October 2, 2019. The renewal application was timely received by the New Mexico Environment Department on May 21, 2020. The application for a modification to the Title V permit was combined with the application for the renewal by Bureau staff on May 21, 2020. Pursuant to 20.2.70.400(B) NMAC, the Department had 60 days to review the application and determine whether it was administratively complete. [NMED Exhibit 5 at 2-3; Chaco CS AR. Nos. 1-3].

4. In the Chaco CS application, Permittee is seeking to renew the existing Title V operating permit. The operating permit renewal also includes incorporation of changes to the facility that are already authorized under construction Permit No. 0759-M6. Those already-authorized changes include increases in the annual throughput and emission limits for the

condensate storage tanks and the truck loading of condensate, adding a pig receiver, increasing the SSM emissions, and changing the name of some units. The changes authorized in Permit No. 0759-M6 also include an alternative operating scenario with increased throughput only when the vapor recovery system (“VRU”) is operational. [NMED Exhibit 5 at 2].

5. For Carracas CDP, the application was timely received by the Bureau on December 10, 2019. [NMED Exhibit 6 at 2; Carracas CDP AR No. 1].

6. For Carracas CDP, the Permittee is seeking to renew the existing Title V operating permit. The operating permit renewal also includes incorporation of changes to the facility that are already authorized under Permit No. 0968M5R7. Those changes include removing four (4) RICE engines, four (4) TEG dehydrators, four (4) reboilers associated with dehydrators and two (2) flares associated with the dehydrators. [NMED Exhibit 6 at 2; Carracas CDP AR No. 1].

7. On November 25, 2019, Bureau staff ruled Chaco CS application administratively complete. [NMED Exhibit 5 at 2; Chaco CS AR No. 4, Bates 528- 531].

8. On January 29, 2020, Bureau staff ruled the Carracas CDP application administratively complete. [NMED Exhibit 6 at 2; Carracas CDP AR No. 3, Bates 299-300].

9. Bureau staff began its respective technical reviews of the both the Chaco CS and Carracas CDP applications after a determination that each application was administratively complete. [NMED Exhibits 5 at 4; NMED Exhibit 6 at 3].

10. For Chaco CS, Bureau staff requested updates while doing an initial review of calculations. The Permittee submitted revisions to the application on April 14, 2020, to incorporate an alternative operating scenario permitted under Permit No. 0759M6. Revisions to the application

were submitted again on May 21, 2020 to change the application from a Title V-Significant modification to Title V-Renewal. [NMED Exhibit 5 at 4].

11. The Bureau's technical reviews for both the Chaco CS and Carracas CDP applications are summarized in the respective Statement of Basis for each facility. The Statement of Basis is a permitting record that includes a description and history of the respective facilities, regulatory applicability reviews and compliance discussions, any public response received by the Department, and a summary of any unique conditions in the respective permits. [NMED Exhibit 5 at 4; Chaco AR No. 6, Bates 540 – 553; NMED Exhibit 5 at 3-4; Carracas CDP AR No. 5, Bates 309 - 321].

12. Bureau staff testified that having completed technical reviews of these two applications, and having reviewed and addressed the comments received by the Bureau on these permits, that both draft permits comply with all air quality regulations and contain demonstrations of compliance for all conditions and emission limits to ensure compliance with Ambient Air Quality Standards. Based on the Bureau's administrative and technical review of both Applications, the Bureau recommends that the Secretary adopt the respective Draft Permits. [NMED Exhibit 3 at 6-7; NMED Exhibit 5 at 8; NMED Exhibit 16; NMED Exhibit 6 at 7; Carracas AR No. 6].

C. The Bureau's Public Outreach for the Respective Applications

13. For each of the Applications, Bureau staff sent the respective completion determination letters, including a copy of the Department's Legal Notices, and the invoices for the permit fees to both the Permittee and the United States Environmental Protection Agency ("EPA")

on November 25, 2019 (Chaco CS), and January 29, 2020 (Carracas CDP). [NMED Exhibit 5 at 3; Chaco AR No. 4, Bates 528- 531; NMED Exhibit 6 at 2; Carracas AR No. 3, Bates 299-300].

i. Public Outreach for Chaco CS

14. On May 21, 2020, the Chaco CS application P236R2M2 was changed from a Title V significant modification to a Title V renewal and was given a new designation as Permit No. P236R3. The permit and statement of basis were drafted. For a Title V permit, the public notifications are sent once the draft permit is available for review. On February 17, 2021, Bureau staff sent the Affected Party letter to the Jicarilla Apache Tribe, the Navajo Nation, the Southern Ute Tribe, the Ute Mountain Reservation, and the State of Colorado to notify each that the draft permit for Chaco CS was available for review. The legal notice was sent to WildEarth Guardians (“WEG”) on February 17, 2021. WEG requested a copy of the draft permit on February 18, 2021, which was sent to WEG on February 23, 2021 [NMED Exhibit 5 at 3; Chaco CS AR No. 40, Bates 684 - 686].

15. The Bureau’s Legal Notice for the Chaco CS Application along with the application itself were posted on the Bureau’s website on February 18, 2021, and published in the *Farmington Daily Times* on February 19, 2021. [NMED Exhibit 5 at 3; Chaco CS AR Nos. 29, Bates 655; and 10, Bates 604 – 606].

16. The 30-day comment period on the Chaco CS draft permit ended March 21, 2021. WEG requested a copy of the draft permit on February 18, 2021, and March 12, 2021. WEG submitted their comments on the Chaco CS draft permit to the Bureau on March 19, 2021. WEG was notified on June 7, 2021, that the permit would go to hearing. [NMED Exhibit 5 at 3; Chaco

AR Nos. 37, Bates 676 – 677; 38, Bates 678 – 682; 39, Bates 683; 11, Bates 607 – 608; and 13, Bates 612].

ii. Public Outreach for Carracas CDP

17. On April 21, 2021, Bureau staff sent the Affected Party letter to Weminuche Wilderness, the Jicarilla Apache Tribe, the Navajo Tribe, the Southern Ute Tribe, the Ute Mountain Reservation, and the State of Colorado to notify them that the Carracas CDP draft permit was available for review. The legal notice for the Carracas CDP application was sent to WEG on April 22, 2021. WEG requested a copy of the draft permit on October 27, 2021, and the permit was sent to WEG on October 27, 2021. The Bureau's Legal Notice and the application were posted on the Bureau's website on April 27, 2021. Notice was published in the *Farmington Daily Times* on April 25, 2021. The 30-day comment period on the draft permit ended May 25, 2021. WEG requested a copy of the draft permit on October 27, 2021. WEG submitted their comments on May 25, 2021. WEG was notified June 7, 2021, that the permit would go to hearing. [NMED Exhibit 6 at 3-4; Carracas CDP AR Nos. 26, Bates 435; 9, Bates 384 – 386; 35, Bates 454-456; 34, Bates 453; 12, Bates 393].

D. The Respective Draft Permits

18. The original Chaco CS draft permit was issued on February 23, 2021. An updated version of the draft permit was entered into the hearing record at the November 15, 2021 public hearing on this matter. [NMED Exhibit 5 at 3; NMED Exhibit 16; Chaco CS AR No. 7, Bates 0554-0599].

19. The Carracas CDP Draft Permit was issued on October 27, 2021 [NMED Exhibit 6 at 3; Carracas CDP AR No. 6, Bates 322-365].

20. The Bureau's authority to include conditions in a Title V Air Quality permit is stated at 20.2.70.302(A) NMAC. If a permit is issued, it will incorporate all applicable requirements, including previously issued requirements of New Source Review ("NSR") permits issued under 20.2.72 NMAC. Both the Chaco CS and Carracas CDP existing NSR permits place limits on air pollutants, and place requirements on how equipment will be operated. Both the Chaco CS and Carracas draft permits are enforceable legal documents that include emission limits, methods for determining compliance on a regular basis, and place monitoring, recordkeeping, and reporting requirements to ensure and verify compliance with the requirements of each respective permit. [NMED Exhibit 5 at 5; NMED Exhibit 6 at 4].

21. For both the Chaco CS and Carracas draft permits, conditions in Part A of each respective draft permit are Facility Specific Requirements, unique to each respective facility. The respective conditions in Part A are site-specific and based on information provided in each application. Conditions in Part B of the respective draft permits are General Conditions and contain standard language which generally apply to all sources. Part C also consists standard language about supporting on-line documents, definitions, and acronyms which apply to all sources. [NMED Exhibit 5 at 5; NMED Exhibit 6 at 4-5].

22. For both the Chaco CS and Carracas draft permits, conditions were updated with standardized language in a Bureau permit template with standardized Bureau monitoring protocols added as necessary to ensure the permit reflected current language and conditions used by the Bureau. Permit conditions establish ongoing testing and monitoring requirements for processes and pieces of equipment to ensure the equipment is operating in accordance with the permitted emission limits. [NMED Exhibit 5 at 5; NMED Exhibit 6 at 5].

E. Public Notice of the Hearing and the November 15, 2021 Hearing

23. Public notice for the hearing in this matter was done for both Chaco CS and Carracas CDP in one newspaper ad. [NMED Exhibit 1 at 2; Chaco CS AR Nos. 20-23].

24. The Notice of Hearing was translated into Spanish by Ana Maria MacDonald, Translation Program Manager for the Department. On October 12, 2021, Notices of Hearing in English and in Spanish were sent to be posted on the Department's Docketed Matters page under the Cabinet Secretary dropdown, in the link for the docket number and facility name. The notice was also posted on the Department's public notice website under the San Juan or Rio Arriba County dropdown, in the link for each of the Facilities. The Notice of Hearing was published in English and in Spanish in three newspapers. Both Notices were published in the *Farmington Daily Times* on October 9 , 2021. Both Notices were published in the *Albuquerque Journal* on October 14, 2021. Both Notices were published in the *Rio Grande Sun* on October 14, 2021. [NMED Exhibit 1 at 2; Chaco CS AR Nos. 20 and 21, Bates 626-640; 22 and 23, Bates 687-692; Carracas CDP AR Nos. 19 and 20, Bates 406-420; 21 and 22, Bates 458-463; NMED Exhibit 17.]

25. On October 12, 2021, emails with the Notices of Hearing in English and in Spanish attached were sent to individuals and groups that had been previously been directly notified about one of the respective permit applications or that submitted comments on a permit application. The notices were sent to the State of Colorado, the San Juan County Manager, the Rio Arriba County Manager, the EPA, the Southern Ute representative, the Jicarilla Apache representative, the Navajo Nation EPA, the city of Bloomfield city office, and WEG. The cover letter and notices were also sent to National Park Service or Forest Service representatives for three Class One areas: the Weminuche Wilderness, San Pedro Parks Wilderness, and Mesa Verde National Park. These

emails included a message informing the recipients of the Notices of Hearing along with other information were available for review on the Department's public notice website under the San Juan or Rio Arriba County dropdown, in the link with the name of the respective facility. [NMED Exhibit 1 at 2-3; Chaco CS AR Nos. 15-19, Bates 616-625; Carracas CDP AR Nos. 14-18, Bates 397-405 and 457].

26. Public service announcements in English for the hearing were sent October 12, 2021, to radio stations KISZ in San Juan County, KSJE public radio in San Juan County, and to KLDK in Rio Arriba County. Public service announcements in Spanish for the hearing were sent October 12, 2021 to KRZE in San Juan County and to KDCE/KYBR in Rio Arriba County. [NMED Exhibit 1 at 3; Chaco CS AR Nos. 24-26, Bates 641-648 and 651-652; 24-26; Bates 649-650 and 653-654; Carracas CDP AR Nos. 23-25, Bates 421-428 and 431-432; 23-25, Bates 429-430 and 433-434].

27. Because of the standing public health orders to prevent the spread of COVID-19, the hearing in this matter was held on November 15, 2021, as a *hybrid* hearing that was conducted virtually on the Zoom platform, with an option for in-person attendance at a physical location provided by the Bureau at the Department's Farmington field office where members of the public were offered the opportunity to view and participate in the hearing. [Chaco AR No. 20, Bates 627].

F. WildEarth Guardians' Challenges to the Permits

28. At the November 15, 2021, hearing WEG's witness, Jeremy Nichols, testified that the Bureau had resolved most of WEG's concerns about the respective applications and draft permits with a few exceptions. In summarizing WEG's outstanding concerns, Mr. Nichols testified

that WEG's concerns with regard to both the Chaco CS and Carracas CDP draft permits are that the respective draft permits

don't appear to be written in such a way as to ensure that the emission limits are met at all times, and that's kind of the crux of what we brought forward here in terms of highlighting the -- what we see or what I see as a lack of enforceability around these specific -- some of the specific limits. And then, ultimately, in terms of the Environment Department's ability to demonstrate that approval of these permits will achieve environmental justice . . . [t]he issues that remain a concern include the adequacy of the public notice for the Chaco Compressor Station, the enforceability of startup, shutdown, maintenance and malfunction emission limits, compliance -- or the enforce- -- or the -- whether the hourly -- the permit assures compliance of the hourly emission limit for the Chaco Compressor Station for truck loadout of condensate, and then environmental justice issues.

[11/15/21 1 Tr. 146:23-147:6; 148:10-17]

i) Email Address Exclusion in the Notice of the Chaco CS Application

29. At the November 15, 2021, hearing, WEG raised concerns about the exclusion of a Bureau contact email address in the Bureau's public notice for the Chaco CS application. Mr. Nichols testified that "the legal notice did not include an e-mail address to which comments could be submitted electronically by the general public and that that -- our big concern there is that could have unfairly led some people to conclude that there was no opportunity to submit electronic comments." [11/15/21 1 Tr. 148:22-149:2].

30. With regard to requirement for contact information in the public notice for applications submitted pursuant to the regulations for Air Quality Operating Permits, 20.2.70.401(C)(6) NMAC does not require the inclusion of an email address for Bureau or Department staff.

ii) The Respective Draft Permits' Assurance of Compliance with Emission Limits

31. At the hearing, Mr. Nichols testified that WEG had a concern that

the permits do not seem to specify a clear enough or specific enough methodology to ensure that VOC [volatile organic compounds] emissions are consistently and accurately measured in the event of startup, shutdown, maintenance and malfunction events, and that because venting activities are, at times, unpredictability, hence the term "malfunction," that without specific methodology identified in the permit, that the permit does not ensure that that emission limits will be met at all times.

[11/15/21 1 Tr. 151:16-152:4]

32. In response, Bureau staff testified that

The abbreviation SSM stands for “startup, shutdown, and maintenance” . . . “Malfunction” is a separate activity (or term) . . . hence WEG’s comment is technically addressing two different kinds of venting activities (or blowdown) events: 1) those that are planned as system maintenance, meaning startup, shutdown, and maintenance (“SSM”); and 2) those that are unplanned (Malfunctions). The methods for tracking both of these are similar. For planned maintenance events, the facility may need to depressurize portions of the facility by venting gas. Similarly for malfunctions, portions of the facility will need depressurizing. The methodology is based on the engineering design of the equipment being depressurized. The volume of vented gas is calculated based on the volumes contained within the various equipment that are being depressurized, including the compressors and associated piping. Both the SSM and malfunction conditions in the permit require tracking and calculating the total VOC emissions based on the inlet gas analyses (meaning the % VOC content of the gas), the volume of gas vented, and the number of venting events per year. This methodology is provided in the [respective] application[s] (Section 6) with the demonstrating calculations. The number of events the [P]ermittee uses in the calculation represents their estimated worst-case scenario. The permit conditions in Section 107 (107.C and 107.D in both permits) do state the requirement for the gas analysis and for the volume of gas vented. Records must be kept. The permit conditions do not state the number of venting events, because this may vary from year to year. In addition, the same SSM or malfunction activity, such as pigging, releases different volumes of gas when the activity occurs in different parts of the facility. The permittee must monitor for the occurrence of all SSM and Malfunction events and keep records. Monitoring and recordkeeping requires monthly tracking of the rolling 12-month total of VOC emissions due to SSM and Malfunction events to ensure compliance with the annual emission limits in the permit. The Department has the authority to inspect records. If the records show an exceedance of the permitted allowable emissions an excess emissions report must be filed under 20.2.7 NMAC. The requirements for reporting excess emissions are included in General Condition B110, [in each respective draft permit] including a footnote in Table 107.A

(Allowable SSM and Malfunctions). Excess emission reports are reviewed to determine if permit violations have occurred. In the Malfunction condition the permittee must also identify the equipment or activity that has malfunctioned, provide a description of the event, and let the Department know whether the emissions from the Malfunction event will be applied to the Malfunction limits or be reported as excess emissions under 20.2.7 NMAC.

[NMED Exhibit 3 at 3-5; Chaco CS AR No. 7, Bates 554-599; Carracas CDP AR No. 6, Bates 322-365; Chaco CS AR No. 1, Bates 001-527; and Carracas CDP AR No. 1, Bates 001-298].

33. At the hearing, Mr. Nichols also testified that WEG's

concern with that condensate loadout limit is that -- specific to the hourly limit, and the concern is that the permit does not require sufficient -- I guess, like -- frequent enough monitoring to ensure that, on an hourly basis, the emission is complied with is met and we -- I do believe that there needs to be more frequent monitoring included in the permit to ensure the enforceability of that hourly limit.

[11/15/21 1 Tr. 150:9-16]

34. In response, Bureau staff testified that

[t]he compliance with hourly emission limits for the engine are assured by initial compliance test according to Condition A201.A of the draft permit. When the engines are installed, they are subject to periodic emission tests conducted quarterly according to Condition A201.B of the draft permit. The measured emissions from these tests are used to verify compliance with both hourly and annually emission limits.

[11/15/21 1 Tr. 150:9-16]

iii) Environmental Justice

35. At the hearing, Mr. Nichols testified regarding WEG's concerns about the Bureau's permitting procedures with regard to the issue of environmental justice. Mr. Nichols testified that the

concern is that the Environment Department has not demonstrated that environmental justice will actually be achieved. In other words, disproportionate impacts to people of color, tribal communities, low-income communities. Those

disproportion impacts will not be addressed or reduced as part of these permitting actions. There's a concern on my end that the Environment Department focus more on procedure and less on the substance of what it actually means to achieve environmental justice.

[11/15/21 1 Tr. 150:20-151:4]

36. In response to WEG's concerns regarding Environmental Justice, Bureau staff testified that

For each permitting action, NMED uses the EPA EJSCREEN tool to evaluate demographic information for an area around the facility; the area is a 4-mile circle around the facility except smaller within urbanized areas. Data from EPA EJSCREEN is evaluated by the permit writer and their manager to evaluate if any additional outreach needs to be done beyond the regulatory requirements. This assessment includes factors such as number of households, per capita income, percent of Linguistically Isolated Households, and percent minority population. Past involvement by the public in air permitting for the facility is also reviewed.

[NMED Exhibit 1 at 5]

III. PROPOSED CONCLUSIONS OF LAW

37. The Secretary has jurisdiction over the subject matter of the Application and the parties to this proceeding and is authorized by the Act to issue or deny permits for existing facilities based upon information submitted in a permit application and relevant information received during the public hearing. NMSA 1978, §74-2-7 (1972 as amended through 2003); 20.2.70.400-402 NMAC.

38. In a permit proceeding hearing before the Secretary of the Environment, "the Applicant or Petitioner has the burden of proof that a permit . . . should be issued and not denied . . . the [Bureau] has the burden of proof for a challenged condition of a permit or license which the [Bureau] has proposed. Any person who contends that a permit condition is inadequate, improper, or invalid, or who proposes to include a permit condition shall have the burden of going forward

to present an affirmative case on the challenged condition.” 20.1.4.400(A)(1) NMAC.

39. The Permittee properly submitted its Applications pursuant to the Air Quality Control Act (“Act”), NMSA, 1978 74-2-1 to -17 (1967 as amended through 2019) and the Air Quality Rules, and all the required information is included in the application. 20.2.70.300 NMAC; 20.2.70.401 NMAC; 20.2.70.404 NMAC.

40. Permittee’s Applications establish that the respective Facilities meet the applicable statutory and regulatory standards, will not cause or contribute to air contaminant levels in excess of national or state standards or, and will not violate any other provision of the Air Quality Control Act or the CAA. NMSA 1978, § 74-2-7(C).

41. The Bureau’s administrative and technical reviews of the Applications were thorough, complete, and sufficient to support the determination that the Applications were administratively and technically complete. 20.2.70.300(C); 20.70.400 NMAC.

42. The Bureau has met all the elements of the statutory and regulatory standards with regard to public notice of the determination of administrative and technical completeness, and notice of the Draft Permits. NMSA 1978, §§ 14-11-2 (1941 as amended through 1999); 14-11-4 (1941); 14-11-6 (1941); 14-11-10.2 (2003); 20.2.70.401 NMAC.

43. The Bureau has met all the elements of the regulatory standard with regard to public notice of the public hearing. NMSA 1978, §§ 14-11-2 (1941 as amended through 1999); 14-11-4 (1941); 14-11-6 (1941); 14-11-10.2 (2003); 20.1.4.200(C)(2)(a) NMAC; 20.2.70.401 NMAC.

44. The Bureau has met all of the elements of the regulatory standards with regard to public outreach and receiving public comment. 20.2.70.401 NMAC.

45. The Bureau has met its burden of proof with regard to the permit conditions

challenged by WEG. 20.1.4.400(A)(1) NMAC; 20.2.70.302(A).

46. The Public Hearing in this matter was held in accordance with an Order for a public hearing entered by the Secretary of the Environment. 20.2.70.401 NMAC.

47. The hybrid virtual/in-person venue of the Public Hearing in this matter was appropriate and complied with the standing public health orders. NMSA 1978, § 47-2-7(I) (1972 as amended through 2003); and 20.1.4 NMAC; Executive Order 2020-004; 3-24-20 Public Health Order.

48. WEG has failed to meet its burden to prove that any conditions of any of the Draft Permits are inadequate, improper or invalid. 20.1.4.100(A)(1) NMAC.

49. The Draft Permits meet all of the applicable standards, rules and requirements of the Air Quality Control Act and the Clean Air Act. NMSA 1978, § 74-2-7(C).

IV. CONCLUSION

For the reasons set forth above, the Bureau respectfully requests that the Hearing Officer adopt these proposed findings of fact and conclusions of law, and recommend that the Secretary uphold the Bureau's decision to issue the respective permits in this matter.

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing New Mexico Environment Department Air Quality Bureau's *Closing Argument and Proposed Findings of Fact and Conclusions of Law* was served via electronic mail on the following parties of record on December 29, 2021:

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